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Counsel for Plaintiff, Robert K. Walls

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Plaintiff Robert K. Walls, an individual, for his Complaint against Uniradio Corp., a California Corporation, Defendant, alleges as follows:

INTRODUCTION

1. Robert K. Walls (hereinafter “Plaintiff”), by counsel, brings this action to challenge the actions of Uniradio Corp. (hereinafter “Defendant”), with regard to the unlawful use of a copyrighted image (hereinafter “Image”) owned by Plaintiff, and this conduct caused Plaintiff damages.

2. For the purposes of this Complaint for Damages, unless otherwise indicated, “Defendant” includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogates, representatives and insurers of Defendant(s) named in this caption.

JURISDICTION AND VENUE

3. This is a civil action seeking damages and injunction relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, whereby the defendant violated plaintiff's exclusive rights as copyright owner pursuant to 17 U.S.C. § 106.

4. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

5. This Court has personal jurisdiction over Defendant because Defendant is a business entity incorporated in the State of California, Defendant's principal place of business is in the State of California, Defendant's acts of infringement complained of herein occurred in the State of California, and Defendant has caused injury to Plaintiff in his intellectual property within the State of California.

6. Venue is proper pursuant to 28 U.S.C. § 1331(b) because the Defendant resides in this judicial district and a substantial part of the events giving rise to Plaintiff's claim occurred in this judicial district.

7. Alternatively, venue is also proper pursuant to 28 U.S.C. § 1400(b) because the Defendant resides, committed the acts of infringement, and has a regular

1 and established place of business in this judicial district.

2 **PARTIES**

3 8. Plaintiff is a natural person who resides in the Town of South Hobart, in
4 the Nation of Australia, and is a professional photographer by trade.
5

6 9. Plaintiff is a “copyright owner” who holds “exclusive rights” to his
7 “copyrighted work[s]” pursuant to 17 U.S.C. §§ 101, 106, and 106A.
8

9 10. Plaintiff is informed and believes, and thereon alleges, that Defendant is
10 a business entity residing in the City of San Diego, in the State of California, and
11 conducted business within the City of San Diego, in the State of California.
12

13 11. Plaintiff is informed and believes, and thereon alleges, that Defendant is
14 a business entity that unlawfully published Plaintiff’s copyrighted works without
15 Plaintiff’s express or implied authority, by the method of a license.
16

17 **FACTUAL ALLEGATIONS**

18 12. At all times relevant, Plaintiff was an individual residing within the
19 Town of South Hobart, in the Nation of Australia.
20

21 13. Plaintiff is informed and believes, and thereon alleges, that at all times
22 relevant, Defendant was a business entity residing in the City of San Diego, in the
23 State of California, and conducted business in the State of California and in this
24 judicial district.
25

26 14. Plaintiff is a professional photographer. He photographs various objects
27 and sells or licenses them to people and companies seeking to make use of the
28

1 photographs for display, advertisements, and pecuniary gain. Plaintiff's livelihood is
2 dependent on receiving compensation for the photographs he produces.

3 15. Plaintiff took the original Image; *see* Original Image attached hereto as
4 Exhibit 1.

5 16. Plaintiff has ownership and copyrights to the Image.

6 17. Plaintiff has registered the Image with the United States Copyright
7 Office under registration number VA 1-789-507.

8 18. Plaintiff did not consent to authorize, permit, allow in any manner the
9 use of the Images by Defendant.

10 19. Plaintiff is informed and believes that Defendant willfully used
11 Plaintiff's copyrighted works without his permission and that it published,
12 communicated, benefited through, posted, publicized and otherwise held out to the
13 public for commercial benefit, the original and unique work of Plaintiff without
14 Plaintiff's consent or authority, and acquired monetary gain and market benefit as a
15 result.

16 20. Plaintiff is informed and believes that Defendant used the Image on its
17 business websites from March 11, 2015 to the present; *see* Screenshots of
18 Defendant's use of the Image attached hereto as Exhibit 2.

19 21. Defendant willfully uses the Image to promote the Defendant's business
20 despite its knowledge that the Image is subject to copyright.

21 22. Plaintiff did not consent to the use of his Image for commercial gain.

FIRST CAUSE OF ACTION

COPYRIGHT INFRINGEMENT

Title 17 of the United States Code

23. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff's unique and original materials and/or work.

25. Plaintiff is informed and believes and thereon alleges that said Defendant willfully infringed upon Plaintiff's copyrighted works in violation of Title 17 of the U.S. Code, in that it published, communicated, benefited through, posted, publicized, and otherwise held out to the public for commercial benefit, the original and unique work of the Plaintiff's consent or authority and acquired monetary gain and market benefit as a result.

26. As a result of each and every Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to actual damages and profits pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c).

27. As a result of the Defendant's violations of Title 17 of the U.S. code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant.

28. Plaintiff is also entitled to injunctive relief to prevent or restrain

1 infringement of his copyright pursuant to 17 U.S.C. § 502.

2 **PRAYER FOR RELIEF**

3 **WHEREFORE**, Plaintiff prays that judgment be entered against Defendant

4

5 • Awarding statutory damages in an amount up to \$150,000.00 for each

6 infringement pursuant to 17 U.S.C. § 504(c) from Defendant;

7

8 • Awarding costs of litigation and reasonable attorney's fees, pursuant to 17

9 U.S.C. § 505 from Defendant;

10

11 • Enjoining the Defendant from further infringement of all copyrighted works of

12 the Plaintiff pursuant to 17 U.S.C. § 502; and

13

14 • Awarding any other relief the Court deems just and proper.

15 Dated: January 29, 2016

16 Respectfully submitted,

17

18 /s/ Naomi M. Sarega, Esq.

19 Naomi M. Sarega, Esq.

20 Cal. Bar No. 306967

21 HIGBEE & ASSOCIATES

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26 *Counsel for Plaintiff*

27

28

DEMAND FOR JURY TRIAL

Plaintiff, Robert K. Walls, hereby demands a trial by jury in the above matter.

Dated: January 29, 2016

Respectfully submitted,

/s/ Naomi M. Sarega, Esq.
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